

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-561-C - ORDER NO. 2001-190

FEBRUARY 28, 2001

IN RE: Application of Daniel Island Media)	
Company, LLC for a Certificate of Public)	
Convenience and Necessity to operate as a)	ORDER GRANTING
Facilities Based Competitive Local Exchange)	CERTIFICATE
Carrier and an Interexchange)	
Telecommunications Carrier within the State)	
of South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Daniel Island Media Company, LLC ("DIMC" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold and facilities-based local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Company's application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2000), §58-9-520 (Supp. 2000) and the Regulations and Rules of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed DIMC to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. DIMC complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”) on January 4, 2001. Thereafter, on January 12, 2001, Counsel for SCTC filed with the Commission a Stipulation in which DIMC stipulated that it would only seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent’s service area, unless and until DIMC provided written notice of its intent prior to the date of the intended service. DIMC also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. DIMC agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to DIMC provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on January 31, 2001, at 2:30 p.m., in the Commission’s Hearing Room. The Honorable William Saunders, Chairman, presided. Francis P. Mood, Esquire, represented the Company. Robert H. Pinckney, President of DIMC, appeared and testified on behalf of the Company. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Barbara J. Crawford, Auditor III and James McDaniel, Chief of Telecommunications, testified on behalf of the Commission Staff.

Pinckney presented testimony regarding DIMC’s managerial, technical, and financial resources to provide telecommunications services in South Carolina. DIMC is a

limited liability company organized under the laws of the State of South Carolina. The Company is currently a provider of cable television services on Daniel Island, a planned community located within the city limits of Charleston, South Carolina. DIMC purchased the cable television assets of BellSouth Entertainment, Inc. and BellSouth Telecommunications on Daniel Island on September 25, 2000. DIMC seeks to provide a complete package of telecommunications services to residents and businesses on Daniel Island, including local exchange telephone service, interexchange telephone service, cable television service and data services, including Internet access.

DIMC will provide its local exchange, cable television and data services over a fiber optic cable network being placed throughout Daniel Island by DIMC. As new lots are developed, DIMC will lay additional fiber optic cable during the construction, or lease capacity from lines laid by BellSouth Telephone. For its interexchange services, DIMC will utilize Sprint and MCI WorldCom. At the time of the hearing, DIMC had almost finished negotiating an interconnection agreement with BellSouth.

Pinckney testified DIMC's management personnel have many years of business and technical experience. DIMC's Chief Executive Officer Dr. George W. Brumley, Jr. served as a Lieutenant in the United States Navy and later served on the faculty of both Duke University and Emory Schools of Medicine reaching the position of Chair of the Department of Pediatrics at Emory (1981-1995). Dr. Brumley is a Venture Capital Investor and is Co-President of the Zeist Foundation, Inc. Pinckney started his telecommunications career with BellSouth as a Business Office Assistant Manager. He has been instrumental in the start-up and operations of several telecommunications

companies including positions as Partner with Markley Stearns Partners, a telecommunications firm; Founder and President of Tel2Net, Inc., a pre-paid phone card services company; and President of Network Telco, Inc, a provider of hardware, software, and services to local telephone companies across the United States. Galen Oelkers is the Company's Chief Financial Officer. Oelkers has a Master of Science and a Bachelor of Science in Business and Accounting from the University of Kansas; he has over twenty-two years of accounting, financial, and management experience.

DIMC plans to utilize Network Telco for management, operations, billing, and maintenance services. Network Telco is a software developer and systems integrator of tandem and end-office telephone switching equipment; it builds, installs, and operates Class Four and Class Five Central Office switches and offers consulting services with regard to network design, interconnection, and customer care and billing. The principles of Network Telco are part owners of Daniel Island Media Company and are primarily responsible for the design, construction, operation, and maintenance of the Daniel Island Media Company facilities as well as customer care and billing. The principles of Network Telco are Pinckney (President), Richard M. Miller (Chief Technology Officer), and Dixon M. Conway (Director of Switch Operations). DIMC has also retained the services of Competitive Communications Group, telecommunications consultants.

In regards to the Company's financial resources to provide telecommunications services in South Carolina, DIMC submitted its ten year proforma information and copies of DIMC's financial statements as of September 30, 2000. The record includes a letter from Wachovia Bank, N.A., Private Financial Advisors; the letter states DIMC and

its principals can support a \$9,000,000.00 credit facility. Additionally, another letter from Wachovia Bank, N.A. was also marked for identification and entered into the evidence as Hearing Exhibit Number One. This letter confirmed the transfer of \$450,000.00 from Zeist Investment Group I-A to Daniel Island Media Company; after the transfer, the balance in DIMC's account was \$541,581.31.

Crawford reviewed the Company's unaudited financial statements dated September 30, 2000. The financial statements demonstrate that DIMC had been operating for less than a year and was still in the start-up mode. Cash made up 2% of the Company's total assets as of September 30, 2000. Crawford noted that according to the financial statement, there were not enough current assets to meet the current liabilities; however, the Company could use some other source of working capital in order to meet all of its current liabilities. Crawford mentioned the letter from Wachovia regarding the ability of the Company and its principals to support a credit facility in the amount of nine million dollars. DIMC had no long term debt as of September 30, 2000, and members' equity was still positive due to capital contributions. Crawford also testified that although DIMC was not very liquid at the end of September 2000, the Company has access to enough credit to fund its operations in South Carolina, based on the letter from Wachovia included in the Company's filing.

McDaniel presented testimony on the Utilities Department's review of the Application of DIMC and a review of the Company's proposed tariff. McDaniel recommended several changes to the Company's tariff – DIMC also agreed to make all the changes to its tariff as suggested by McDaniel. McDaniel also testified that if the

Company chooses to offer prepaid calling card services in South Carolina, the Commission may want to consider the waiver of the requirement of a \$5,000.00 in the form of a Certificate of Deposit or Surety Bond. McDaniel stated the Commission might consider waiving this requirement because the Company indicated that it proposes to offer its local services on a facilities basis and DIMC is a South Carolina company.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. DIMC is organized as a corporation under the laws of the State of South Carolina.
2. DIMC wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that DIMC possesses the technical, financial, and managerial resources sufficient to provide the service requested.
4. The Commission finds that DIMC's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2000).
5. The Commission finds that DIMC will support universally available telephone service at affordable rates.
6. The Commission finds that DIMC will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by DIMC “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 2000).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to DIMC to provide competitive resold and facilities-based local exchange and intrastate interexchange telecommunications services in South Carolina. The terms of the Stipulation between DIMC and the SCTC are approved, and adopted as a portion of this Order. Any proposal to provide local exchange service to a customer in a rural incumbent LEC’s service area is not included in the instant grant of authority. Further, the Company is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. With regard to the interexchange service offerings of DIMC, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. DIMC shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. DIMC shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 6, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2000).

4. If it has not already done so by the date of issuance of this Order, DIMC shall file its revised long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The Company shall file its revised local tariff prior to commencement of operations within South Carolina. The revised tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. DIMC is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. DIMC shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If DIMC changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, DIMC shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See 47 CFR 51.209).

9. DIMC shall file annual surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations For Interexchange Companies and AOS".

10. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a

911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs DIMC to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, DIMC, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

DIMC shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The

Company shall utilize the “Authorized Utility Representative Information” form which can be located at the Commission’s website at www.psc.state.sc.us/forms to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. DIMC shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

13. DIMC shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, DIMC shall keep financial records on an intrastate basis for South Carolina to comply with the annual and gross receipts filings. The “Annual Report for Competitive Local Exchange Carriers” form can be located at the Commission’s website at www.psc.state.sc.us/forms. This form shall be utilized by the Company to file annual financial information with the Commission.

14. At the beginning of the hearing, DIMC requested a waiver from the Commission of any record-keeping rules or regulations that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The Commission finds that DIMC’s request to keep its records in conformance with the Generally Accepted Accounting Principles (GAAP) instead of the Uniform System of

Accounts reasonable. DIMC is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2000-561-C

Re: Application of Daniel Island Media Company,)
L.L.C. for a Certificate of Public Convenience)
and Necessity to Operate as a Facilities-based)
Competitive Local Exchange and Interexchange)
Telecommunications Carrier and as a Reseller)
of Local Exchange and Long Distance Services)
in the State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Daniel Island Media Company, L.L.C. ("Daniel Island") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Daniel Island' Application. SCTC and Daniel Island stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Daniel Island, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Daniel Island stipulates and agrees that any Certificate which may be granted will authorize Daniel Island to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Daniel Island stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Daniel Island stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless

and until Daniel Island provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Daniel Island acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Daniel Island stipulates and agrees that, if Daniel Island gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Daniel Island will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Daniel Island acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

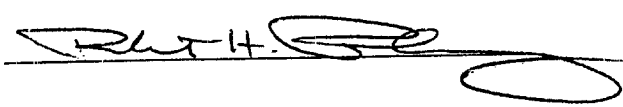
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Daniel Island, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Daniel Island agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

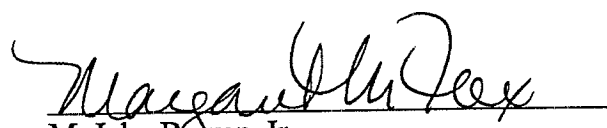
9. Daniel Island hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 5TH day of January, 2000.

Daniel Island Media Company, L.L.C.:



South Carolina Telephone Coalition:



M. John Bowen, Jr.

Margaret M. Fox

McNAIR LAW FIRM, P.A.

Post Office Box 11390

Columbia, South Carolina 29211

(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

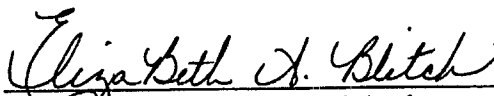
Docket No. 2000-561-C

Re: Application of Daniel Island Media Company,)
L.L.C. for a Certificate of Public Convenience)
and Necessity to Operate as a Facilities-based)
Competitive Local Exchange and Interexchange)
Telecommunications Carrier and as a Reseller)
of Local Exchange and Long Distance Services)
in the State of South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Frances P. Mood, Esquire
Haynsworth Sinkler Boyd
Post Office Box 11889
Columbia, South Carolina 29211-1889.


ElizaBeth A. Blitch, Legal Assistant
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

January 12, 2001

Columbia, South Carolina